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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,986	07/13/2001	Colin Lawrence Kilgour	101384-9	3820

27387 7590 02/07/2007

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EXAMINER	
CHENCINSKI, SIEGFRIED E	
ART UNIT	PAPER NUMBER
3692	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/904,986	KILGOUR ET AL.	
	Examiner	Art Unit	
	Siegfried E. Chencinski	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/21/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-17 and 19-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (hereafter AAPA), Barron's Dictionary of Finance and Investment Terms (Fifth Edition, hereafter Barron's), Gulati (US Patent 6,778,968 B1) and Official Notice.

Re. Claims 1 & 22, AAPA discloses the following method and systems as being prior art at the time of Applicant's invention:

- "Typically, commercial transactions between businesses involve the seller of a good or service ("merchant") delivering the good or service to the purchaser ("buyer") in advance of receiving payment. From the time that the good/service is delivered until such time as the buyer pays for it, the merchant is said to have an account receivable with the buyer. The AR is a financial asset that indicates the expectation of future payment according to the terms of the commercial relationship between the merchant and buyer". (Page 2, ll. 18-24).
- Applicant admits that the prior art has included the securitization of accounts receivable (AR) by and for large corporations and that "the fees inherent in the securitization process render this means of accessing capital markets inefficient for all but large commercial entities" (Specification, page 4, l. 24 – page 5, l. 4).
- In the context of Applicant's invention a person which owns an accounts receivable is an individual or an entity given protection of limited liability by a government authority.
- A merchant's buyer and a merchant are defined Applicant as follows: "Typically,

commercial transactions between businesses involve the seller of a good or service ("merchant") delivering the good or service to the purchaser ("buyer") in advance of receiving payment." (Specification, page 2, ll. 18-20).

AAPA does not explicitly disclose a method and system for facilitating a financial investment in at least one accounts receivable owned by a first person, comprising the steps performed by a systems manager using a computer-based system of:

- enrolling the at least one accounts receivable owned by the first person as a lot for a trade using a computer database;
- receiving at least one bid from at least one bidder for purchasing the lot; and,
- determining the result of the trade for the lot, wherein each account receivable of the at least one accounts receivable is associated with a merchant's buyer and a merchant.

However, **Barron's** discloses the following definition of securitization: securitization is a "process of distributing risk by aggregating debt instruments in a pool, then issuing new securities backed by the pool. *See also* ASSET-BACKED SECURITIES" (page 551). "ASSET-BACKED SECURITIES – bonds or notes backed by loan paper or **accounts receivable** (bolding added)... often "enhanced" by a bank LETTER OF CREDIT or by insurance coverage provided by an institution other than the issuer. Typically, the originator of the loan or accounts receivable paper sells it to a specially created trust, which repackages it as securities with a minimum denomination of $ 1000 and a term of five years or less. The securities are then underwritten by brokerage firms who reoffer them to the public.". (pp. 30-31).

Gulati discloses the following about securitization:

"When a person or entity borrows money from a lender, the borrower must sign a promissory note promising to repay the home loan and a mortgage note (or deed of trust) to serve as collateral for the loan. The bearer of such notes has a legal claim to the underlying property until the mortgage loan is either paid in full or refinanced. When a lender has distributed all of its available funds, the lender will often raise money by selling groups of notes (mortgage loans) to investors. The selling of mortgage loans to investors is referred to
as the secondary mortgage market.

Loans sold on the secondary markets are often bundled and securitized. Securitization is the repackaging of non-negotiable securities into negotiable securities

(e.g., issuing securities against future cash flows such as mortgage backed securities). Complete securitization of a financial intermediary's
assets removes the need for deposits as funds that would be recouped when the assets were securitized. In pure form, securities remove default risk and interest rate risk from balance sheets.

For example, mortgage backed securities are created when loans are packaged, or "pooled", by issuers or servicers for sale to investors. As underlying mortgage loans are paid off by homeowners, investors receive payments of interest and principal. Investors may purchase mortgage securities
when issued or afterward in the secondary market. Investments in mortgage securities are typically made by large institutions when securities are issued. These issued securities may ultimately be redistributed by dealers in the secondary market. Similarly, asset-backed securities are created when student
loans, credit card debt or other forms of consumer or corporate debt are pooled. " (Col. 1, ll. 14-45).

Gulati also discloses a computer automated method and system for operating an exchange system for controlling and operating the exchanging of ownership interests of objects in a secondary market, including commercial real estate loans, automobile leases 610 (both individual and corporate), consumer credit (including direct financing and credit cards), home mortgages, equipment leasing, bad debt purchasing (both individual and corporate), and student. (Col. 6, ll. 8-50; Col. 9, l. 66 – Col. 10, 23).

It was well known to the ordinary practitioner at the time of Applicant's invention that the efficiencies provided by the computer revolution had been systematically applied in the world of finance, including the world of trading in financial commodities and various other kinds of securities. It was also well known that these events brought with them the resultant appearance of dramatically reduced securitization and trading fees, and the lay-offs of thousands of personnel by brokerage firms since the 1980's. Further, given that accounts receivable were a well known securitized and traded product, and in view of AAPA, the disclosures by Barron's and Gulati (all above), it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention that the economy of scale barriers to economically securitizing small value bundles of accounts receivable for much smaller commercial entities were gone and that the securitization of dramatically smaller dollar amounts of accounts receivable had been made economically feasible.

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention that the owner of something he or she is offering for sale through a bidding process will own the item for sale until a successful bidder has been determined and even beyond that until appropriate consideration been delivered to the owner since that is a common understanding by the public in the United States, supported by various statutes and the Uniform Commercial Code. Thus, in the United States of America, the first person in claim 1 would have retained ownership of the at least one accounts receivable in the lot unless a successful bidder is determined in the determining step.

Finally, the examiner takes **Official Notice** that the following was well known at the time of Applicant's invention:

- enrolling the at least one accounts receivable owned by the first person as a lot for a trade using a computer database;
- receiving at least one bid from at least one bidder for purchasing the lot; and,
- determining the result of the trade for the lot, wherein each account receivable of the at least one accounts receivable is associated with a merchant's buyer and a merchant.

The basis for this Official Notice are all of the above disclosures, including the operational disclosures by Gulati, which covers the trading of any securitized financial instrument, and the active market for securitized Accounts Receivable at the time of Applicant's invention.

Applicant is also advised of the following court opinion(s) regarding new combination(s) of old elements: ***In re Venner and Bowser* (CCPA), 120 USPQ 192**: "Unquestionably a new combination of old elements is patentable under certain circumstances. However, we believe that this principle is subject to the conditions stated in the case of In re Kaufman, 39 CCPA 769, 1952 C.D. 85, 656 O.G. 279, 193 F.2d 331, 92 USPQ 141, wherein the court stated at 774, 92 USPQ at 144: * * * if a new combination of old elements is to be patentable, the elements must cooperate in such manner as to produce a new, unobvious, and unexpected result. It must amount to an invention. In re Smith, 34 CCPA 1007, 73 USPQ 394, cited supra. In the absence of invention, utility

and novelty are not sufficient to support the allowance of claims for a patent. In re Levin, 37 CCPA 791, 178 F.2d 945, 84 USPQ 232 ;"

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system or facilitating a financial investment in at least one accounts receivable owned by a first person, comprising the steps performed by a systems manager using a computer-based system of enrolling the at least one accounts receivable owned by the first person as a lot for a trade using a computer database; receiving at least one bid from at least one bidder for purchasing the lot; and, determining the result of the trade for the lot, wherein each account receivable of the at least one accounts receivable is associated with a merchant's buyer and a merchant. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claims 2 & 33, neither AAPA, Gulati, nor Barron's explicitly disclose the step of determining the most favorable bid comprises the steps of:

- advising the owner of the bids received;
- receiving from the owner a direction on the outcome result of the trade, the direction comprising one selected from the group consisting of:
    - acceptance of a successful bid received from a successful bidder in accordance with a pre-determined set of rules; and,
    - rejection of all the bids; and,
    - notifying the at least one bidder of the result.

However, these steps are the well known steps practiced in the trading of commodities such as financial securities. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system for determining the most favorable bid as stated above. The motivation for this offering would

have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claims 3, Barron's discloses the enhancement of asset-backed securities such as those backed by accounts receivable in order to bring the credit quality of the security up to investment grade (p. 30, Asset-backed Securities, line 3).

Re. Claims 4 & 31, Barron's discloses the enhancement of asset-backed securities such as those backed by accounts receivable in order to bring the credit quality of the security up to investment grade. Barron's also discloses two types of credit enhancers, banks through letters of credit, and insurance companies (p. 30, Asset-backed Securities, line 3). The amount of enhancement as a percentage of the of the value of the accounts receivable is an implicit judgement to be made between the issuer and the market maker related to the timing and other factors which may vary from issue to issue. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system for determining the most favorable bid as stated above. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claims 5 & 32, Barron's discloses that credit enhancement is procured by obtaining credit insurance from an insurance provider possessing an investment grade credit rating (p. 30, ASSET-BACKED SECURITIES, line 3; p. 127, CREDIT ENHANCEMENT, ll. 2-8).

Re. Claim 6, the above cited disclosures of AAPA, Gulati, and Barron's make it implicit that an accounts receivable, having enhanced credit quality to be a tradable security, is a financial instrument.

Re. Claims 7 & 34, Gulati discloses the providing of loan composition information as part of the portfolio valuation and pricing model. It would have been obvious to the ordinary practitioner of the art to see that this step is equivalent to the providing of

information on the lot of at least one accounts receivable for examination by prospective bidders (Fig. 13, # 1306; Col. 10, l. 30, 33-43). Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system for providing information on the lot of at least one accounts receivable for examination by prospective bidders. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claims 8 & 23, Gulati discloses the storing of securities transaction related information in a computer database which is implicitly accessible electronically (Col. 10, l. 30, 33-43).

Re. Claims 9 & 24, the above cited disclosures of AAPA, Gulati, and Barron's make the transferring of the title of the at least one accounts receivable from the first person to a successful bidder, if any, the successful bidder becoming the owner implicit.

Re. Claims 10 & 25, the above cited disclosures of AAPA, Gulati, and Barron's make the facilitating of the transfer of funds from the successful bidder, if any, to the first person implicit.

Re. Claim 11, the above cited disclosures of AAPA, Gulati, and Barron's make implicit the steps of:

- transferring the ownership of the at least one accounts receivable from the owner to a successful bidder, if any; and,
- facilitating the transfer of funds from the successful bidder, if any, to the owner.

Re. Claims 12 & 36, Gulati discloses the management of underlying assets on behalf of the owner (Col. 17, ll. 7-30).

further comprising the step of managing the at least one accounts receivable in the lot on behalf of the owner.

Re. Claim 13, in view of the information in the rejection of claim 12 over Gulati, it is implicit in Gulati's teaching that the service offering would have included the managing of accounts receivable on behalf of the owner.

Re. Claims 14, 26 & 37, none of AAPA, Gulati, or Barron's explicitly disclose the detailed steps of managing the at least one accounts receivable comprising:

- maintaining contact with the associated merchant's buyers in order to effect timely discharge of indebtedness associated with the at least one accounts receivable;
- receiving a payment from a merchant's buyer associated with the at least one accounts receivable;
- sending a receipt for the payment associated with the at least one accounts receivable to the merchant's buyer;
- forwarding the payment to the owner of the at least one accounts receivable;
- updating the computer database recording the relevant payment; and,
- recording all transactions with regard to the management of the at least one account receivable in the computer database.

However, the steps necessary to manage accounts receivable were well known. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of AAPA, Gulati, and Barron's with the well known practice of accounts receivable management, motivated by the need to assure the collection of the accounts receivable underlying a security according to the contracted terms of the receivables, current owners of the accounts receivable and for the contractual requirements of the enhancement guarantors.

Re. Claims 15 & 27, the above cited disclosures of AAPA, Gulati, and Barron's make implicit the steps of a trade as a primary market transaction concerning the sale of at least one accounts receivable from the first person, being the merchant of the at least one accounts receivable, to a successful bidder.

Re. Claims 16 & 28, the above cited disclosures of AAPA, Gulati, and Barron's make implicit the steps of a trade as a secondary market transaction concerning the sale of at least one accounts receivable from the first person, being the owner of the at least one accounts receivable, to a successful bidder.

Re. Claims 17 & 29, none of AAPA, Gulati, or Barron's explicitly disclose the trade of a distressed accounts receivable as a market transaction. However, Barron's discloses that the

trading of distressed securities was well known at the time of Applicant's invention (p. 155, DISTRESS SALE, ll. 1-3). Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system for trading distressed accounts receivable as a market transaction. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claim 19, none of AAPA, Gulati, or Barron's disclose a method wherein upon a merchant's buyer not making a payment timeously to discharge the debt associated with a first accounts receivable being one of the at least one accounts receivable according to the terms of the at least one accounts receivable, the step of managing the at least one accounts receivable comprises consulting with owner of the at least one accounts receivable to determine the course of action, said course of action comprising one selected from the group consisting of: the owner waiting for the merchant's buyer to make the payment; and, the owner waiting for resolution of a dispute between the first owner and the merchant's buyer relating to the first accounts receivable before receiving the payment.. However, it is obvious that a manager of accounts receivables would consult with the owner of an accounts receivable to determine the course of action. Two viable options for the owner would be (a) The owner waiting for the merchant's buyer to make the payment; and, (b) the owner waiting for resolution of a dispute between the first owner and the merchant's buyer relating to the first accounts receivable before receiving the payment. It is obvious that the options would be based on a securitization structure which guarantees payment to the owner, potentially with interest, should there be a delay in eh payment timing. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system for managing the at least one accounts receivable by consulting with owner of the at least one accounts receivable to determine the course of action when a merchant's buyer has

not made a payment timeously to discharge the debt associated with a first accounts receivable. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claim 20, none of AAPA, Gulati, or Barron's disclose a method wherein upon a merchant's buyer not making a payment timeously to discharge the debt associated with a first accounts receivable being one of the at least one accounts receivable according to the terms of the at least one accounts receivable, the step of managing the at least one accounts receivable comprises consulting with owner of the at least one accounts receivable to determine the course of action, said course of action comprising one selected from the group consisting of: (a) the owner waiting for the merchant's buyer to make the payment; (b) the owner waiting for resolution of a dispute between the first owner and the merchant's buyer relating to the first accounts receivable before receiving the payment; and, (c) the owner waiting for the provider of credit enhancement and the original owner to fulfill restitutional obligations. It is obvious that the options would be based on a securitization structure which guarantees payment to the owner, potentially with interest, should there be a delay in a payment's timing. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system for managing the at least one accounts receivable by consulting with owner of the at least one accounts receivable to determine the course of action when a merchant's buyer has not made a payment timeously to discharge the debt associated with a first accounts receivable. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claim 21, none of AAPA, Gulati, or Barron's explicitly disclose the trade is a distressed accounts receivable market transaction, and the group of courses of action further includes disposing of the first accounts receivable through the distressed accounts receivable

market. However, Barron's discloses that the trading of distressed securities was well known at the time of Applicant's invention (p. 155, DISTRESS SALE, ll. 1-3). Consequently, It would have been obvious for the ordinary practitioner to have sold a distressed accounts receivable. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's and Official Notice to design and offer a method and system for disposing of a distressed accounts receivable through the distressed accounts receivable market.. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Re. Claim 30, the above cited disclosures of AAPA, Gulati, Barron's and Official Notice make it implicit that an accounts receivable, having enhanced credit quality to be a tradable security, is a financial instrument. AAPA, Gulati, Barron's and Official Notice disclose and suggest a financial instrument for financial investment using a computer-based system comprising at least one accounts receivable owned by a first person, each account receivable of the at least one accounts receivable being associated with a merchant's buyer and a merchant, wherein a systems manager using the computer-based system:

- enrolls the at least one accounts receivable owned by the first person as a lot for the trade in a computer database (see claim 1 above);
- receives at least one bid from at least one bidder for purchasing the lot (see claim 1 above);
- determines the result of the trade for the lot (see claim 1 above); and
- the merchant enhances the credit quality of each of the at least one accounts receivable for bringing the credit quality of the at least one accounts receivable up to investment grade (see claim 3 above);

Re. Claim 35, the above cited disclosures of AAPA, Gulati, Barron's and Official Notice make it implicit that the systems manager using the computer-based system further:

- transfers the ownership of the at least one accounts receivable from the owner to a successful bidder, if any (see claim 9 above); and,
- facilitates the transfer of funds from the successful bidder, if any, to the owner (see claim 10 above).

Re. Claim 38, the above cited disclosures of AAPA, Gulati, Barron's and Official Notice make it implicit that the trade is one selected from the group consisting of:

- a primary market transaction concerning the sale of at least one accounts receivable from the first person, being the merchant of the at least one accounts receivable, to a successful bidder (see claim 15 above);
- a secondary market transaction concerning the sale of at least one accounts receivable from the first person, being the owner of the at least one accounts receivable, to a successful bidder (see claim 16 above); and,
- a distressed accounts receivable market transaction (see claim 17 above).

Re. Claim 39, the above cited disclosures of AAPA, Gulati, Barron's and Official Notice make it implicit that upon a merchant's buyer not making a payment timeously to discharge the debt associated with a first accounts receivable being one of the at least one accounts receivable according to the terms of the at least one accounts receivable, the step of managing the at least one accounts receivable comprises consulting with owner of the at least one accounts receivable to determine the course of action, said course of action comprising one selected from the group consisting of:

- the owner waiting for the merchant's buyer to make the payment (see claim 19 above); and,
- the owner waiting for resolution of a dispute between the first owner and the merchant's buyer relating to the first accounts receivable before receiving the payment (see claim 19 above);
- the owner waiting for the provider of credit enhancement and the original owner to fulfill restitutional obligations (see claim 20 above); and,
- where the trade is a distressed accounts receivable market transaction, the owner disposing of the first accounts receivable through the distressed accounts

receivable market (see claim 21 above).

2. **Claim 18 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (hereafter AAPA), Barron's Dictionary of Finance and Investment Terms (Fifth Edition, hereafter Barron's), Gulati (US Patent 6,778,968 B1) and Official Notice as applied to claims 6 and 13, and further in view of Graff (US Patent 6,192,347 B1).

Re. Claim 18, Barron's discloses a method of holding of funds in escrow as security until the conditions of a contract are met. Further, Graff discloses the use of escrowed funds in the securitization of real estate investments (Bringing a new financial product to market - Col. 2, ll. 51-60; Securitization – Col. 10, ll. 53-60; Escrow – Col. 191, l. 19 – Col. 193, l. 61). It was well known to an ordinary practitioner of the art at the time of Applicant's invention that accounts receivable have certain characteristics, among which are the possibility of disputes between a merchant and a buyer regarding payment for a specific transaction based on possible disagreement regarding whether the buyer has received the full quality, service and timeliness of an order, and at times reasons which cause a buyer to not make timely payment or no payment at all for the delivery of a product or a service, or a combination thereof. A funds escrow was well known to have been used to maintain the investment grade of securities dependent on payments by third parties. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to combine the disclosures of AAPA, Gulati, Barron's, Official Notice and Graff to design and offer a method and system for enrolling accounts receivable in a securitization program by providing an escrow facility as part of the securitization instrument. The motivation for this offering would have been the desire to satisfy a need for an automated compliance tracking and longitudinal loan analysis system to enable small parties to contract the delivering and servicing requirements of secondary market transactions to outside parties (Gulati, Col. 5, l. 66 – Col. 6, l. 2).

Response to Arguments

3. Applicant's arguments filed November 21, 2006 have been fully considered but they are not persuasive.

ARGUMENT A: The examiner has misunderstood the nature of the invention .... Because 'the "means" (of trading) is not securitization, but an exchange between owners of lots of AR and investors to purchase lots of AR' (p. 13, ll. 6-11).

RESPONSE: While the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (discussed below)>; MSM Investments Co. v. Carolwood Corp., 259 F.3d 1335, 1339-40, 59 USPQ2d 1856, 1859-60 (Fed. Cir. 2001).

In this instance, Applicant has failed to claim "an exchange between owners of lots of AR and investors to purchase lots of AR" in independent claims 1, 22 and 30. The language used, such as "a lot for a trade" (element (a)), "receiving a bid from at least one bidder for purchasing the lot" element (b)), and determining the result of the trade for the lot (element (c)) are all language in the financial trading arts which connote transactions for cash consideration for each bid and each trade. The AAPA statements demonstrate that the language used to create claimed limitations is understood to mean what the examiner took as meaning. For example on page 3 of the last office action, lines 10-13, the first Office quoted Applicant's Background as stating: '"Typically, commercial transactions between businesses involve the seller of a good or service ("merchant') delivering the good or service to the purchaser ("buyer") in advance of receiving payment." (Specification, p. 2, ll. 18-20)'.

As inferred by the above quoted court opinion, Applicants do have the right, within certain boundaries of the English language, to be their own lexicographer to limit the meanings of certain expressions within their claims. The examiner has failed to find

such special definitions of words used in the claims in Applicant's specification. As such, Applicant apparently chose not to be their own lexicographer for certain expressions.

Accordingly, the examiner has interpreted the claims language in their broadest reasonable meaning, which explains the rejections which were made. It would appear that Applicant has claimed too broadly and has missed claiming the intended invention. Applicant has the right to claim Applicant's intended invention(s) under several options specified in the MPEP. Applicant's mining of the specification may result in a narrowing of claims limitations which might be patentable.

ARGUMENT B: Securitization is not a part of the claimed invention in present claim 1 or in any other part of the application" (p. 14, ll. 6-9).

RESPONSE: The core of the rejections of independent claims 1, 22 and 30 is based on the broad and simple claims language which suggests old fashioned trading which does not necessarily need securitization. Further, as admitted by Applicant, a large scale of trading of lots of AR is, in fact occurring with substantial use of the securitization practice for reasons explained by Applicant in the specification's Background section.

The examiner's rejection logic in the First Action dated May 23, 2006 referred to the widespread securitization practice in the art which the ordinary practitioner would have directly considered because the subject matter in the preambles of the independent claims and in the limitation elements themselves suggests that practice through the words used, with claim 1 as exemplary: "financial investment in at least one accounts receivable" (preamble), "a lot for a trade" (of accounts receivable (element (a), "purchasing the lot" (element (b)), and "the result of the trade for the lot" (element (c)). The triggering expressions are "financial investment", "accounts receivable", "lot", "purchasing" and "trade". Further, Applicant's specification refers significantly to securitization in the Background section and also a number of times in the Summary of the Invention and Detailed Description of the Invention sections. Applicant's intent appears to be to assert that Applicant's invention avoids securitization. However, the broad claims limitations suggest to the ordinary practitioner practices in the art which do

make use of securitization. Further, the dependent claims add limitations which attempt to offer some of the same features for investors which are provided by securitization throughout claims 3 through 21 and the companion systems claims. Therefore, without narrowing the claims limitations to explicitly separate the claimed invention from financial investment securitization practices, the wording of the claims suggests the practices of the various financial security instruments being traded, particularly those trading in lots or bundles of AR (accounts receivable) and loan account and mortgage loan bundles being traded in huge dollar volumes.

ARGUMENT C: Amendment of the independent claims with addition of the expression "and wherein the first person retains ownership of the at least one accounts receivable in the lot unless a successful bidder is determined in the determining step" to cure the rejections of independent claims 1, 22 and 30.

RESPONSE: This addition to the claims is non-functional descriptive language which cannot impart patentability (MPEP 2106). Further, ownership is inherently indefinite. It is a legal abstraction. In accordance with the *State Street* decision (MPEP 2106.II.A), ownership limitations cannot impart patentability.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Richard E. Chilcot, can be reached on (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington D.C. 20231

or (571)*273-8300* [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

February 2, 2007

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